SINGLE BENCH

(3)

CF 1602

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 5174 /2006

PETITIONER : Ram Narayan Sahu, Son of Shri Het Ram Sahu, aged about 38 years, resident of Village Nayapara, Tehsil Baloda Bazar, District Raipur (C.G.).

P.R. No. S 216/06
Presented by Shri ...
dated 19/9/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through - Secretary, Panchayat & Welfare Development Department, Government of Chhattisgarh, D.K.S. Bhawan, Raipur (C.G.).
2. Joint Director, Panchayat and Social Welfare, Raipur (C.G.).
3. Collector, Raipur, District Raipur (C.G.).
4. Chief Executive Officer, Janpad Panchayat, Baloda Bazar, Tehsil Baloda Bazar, District Raipur (C.G.).
5. Sarpanch, Gram Panchayat, Nayapara, Tehsil Baloda Bazar, District Raipur (C.G.).

RECEIVED-COPY
19/9/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS, DIRECTION/DIRECTIONS ETC.

AFR

3.10.06

37

HIGH COURT OF CHHATTISGARH AT BILASPUR
W. P. (s) No. 5174 of 2006

Petitioner : Ram Narayan Sahu
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

Shri M.K. Sinha, counsel for the Petitioner.
Shri Sumesh Bajaj, Govt. Advocate for the State/respondents No. 1 to 3.

ORDER

(Passed on 3rd October, 2006)

1. The petitioner, while working as Panchayat Karmi, was appointed as Panchayat Secretary on 4.11.1995 (Annexure P/1).

2. The Prescribed Authority i.e. Chief Executive Officer, Janpad Panchayat Baloda Bazar, by order dated 12.9.2006 (Annexure P/9), suspended the petitioner from working as Panchayat Secretary, village Nayapara during pendency of the departmental enquiry on the basis of serious allegations against him.

3. Be that as it may, the impugned order dated 12.9.2006 is not in nature of removal order, but the order of suspension facilitating smooth conduct of enquiry against the petitioner.

4. Learned counsel appearing for the petitioner submits that the impugned order dated 12.9.2006 was passed by the

38

Chief Executive Officer, Janpad Panchayat Baloda Bazar, who is not the Prescribed Authority for appointing of Panchayat Secretary under Section 69 (1) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short "the Adhiniyam, 1993"). Thus, the impugned suspension order is bad in law, unjust and without jurisdiction.

5. I have heard learned counsel for the petitioner and perused petition and documents annexed thereto. It is true that the Joint Director/Deputy Director, Panchayat and Social Welfare Department is the competent officer under Section 69 (1) of the Rules, 1993 as per notification No. 705/P/22/2003 dated 19.5.2003 issued by the State Government.

6. The Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (for short "the Rules, 1966") provides for suspension under second proviso of the Rule 9, if the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made. The Rules 1966 are applicable in case of Panchayat employee in respect of such fields, which are not governed as prescribed under the Adhiniyam, 1993 and the

39

Rules made thereunder i.e. Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short "the Rules, 1999"). Thus, the Rules 1966 are applicable to all the employees of the State Governments/Panchayats. The facts of reporting suspension to the Joint Director/Deputy Director, Panchayat and Social Welfare Department, Raipur is borne out from the impugned order itself, which has been marked to the concerned authority. It is, therefore, held that the impugned suspension order was properly passed by the respondent No. 4.

7. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records. At this stage, it is not necessary to go into the charges levelled against the petitioner because it may prejudice the case of the parties in the pending departmental enquiry.

40

8. For the reasons stated-above, no case has been made out for exercise of extraordinary power under Article 226 of the Constitution of India. Thus, this writ petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

Bablu